An Election Guide for Rural Municipalities

Saskatchewan Municipal Affairs, Culture and Housing
Community Support Services Branch
Advisory (Management) Services Unit

September 2000

102-05218/

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INTRODUCTION

This guide has been prepared to help election officials of rural municipalities in carrying out the duties and responsibilities for holding elections. It is intended to be used for reference purposes only. *The Rural Municipality Act, 1989* (RMA) specifically provides the authority for rural municipalities to hold annual elections and should be consulted when dealing with the elections.

On election day, the deputy returning officer (DRO) will be called upon to exercise important responsibilities in an effective and efficient manner.

Together with a poll clerk, if any, the DRO will be responsible for the proper administration of the poll. If the DROs take the time to learn their duties and responsibilities prior to election day, they will be prepared to make the best decisions when they are called upon to do so.

The DRO is responsible for setting up and opening the polling place, providing qualified voters with a ballot, recording the operation of the poll, and remaining at the poll after it closes to count the ballots. The DRO must then transmit the results to the returning officer (RO).

This manual has been prepared based on the election provisions outlined in the RMA, as a guideline to assist DROs with their duties. It has no legal authority. If after reading the manual you are in doubt about any procedures, consult the RMA.

Be sure to read the entire guide as soon as possible to familiarize yourself with your responsibilities.

PROCEEDINGS PRELIMINARY TO ELECTIONS

LIST OF VOTERS

- A list of voters is no longer required, unless the council requests the administrator to prepare one.
    - anytime before October 1, council may instruct the administrator to prepare a list of voters showing in which division each voter is entitled to vote in an election;
    - the voters names should be listed alphabetically by division;
    - the list does not have to be certified;
    - council decides how many copies are printed and whether they are offered for sale and how much to charge; and
    - the list is for informational purposes only and is not used by the appointed elections officials for conducting the election, nor is the list of voters posted.
- There is a penalty for any administrator who knowingly fails to carry out his/her duties in completing the list of voters.

ELECTION PROCEDURES

GENERAL PROVISIONS

- For annual elections in all rural municipalities, the close of the nomination period takes place on the third Monday of October at 3:00 p.m. local time.
- Within 48 hours after the close of nominations, a candidate may withdraw his or her nomination.
- Annual election day is the third Wednesday after the nomination period.
- Polls shall be kept open from 9:00 a.m. to 5:00 p.m. on election day, unless a bylaw is adopted extending the hours of voting.
- *The Controverted Municipal Elections Act* applies in cases where people may apply to challenge the result of an election.
- The first meeting of council is called by the administrator and must be held by January 15 in the year following the general election.

BEFORE OCTOBER 1ST EACH YEAR

- Voters may petition for an advance poll.
- Council may instruct the administrator to prepare a list of voters.
- Council shall name one or more poll places within Saskatchewan for each division.
- Council may appoint a DRO for each polling place.
- Council shall appoint a RO and any other election officials that may be needed.

If:

- RO is unable to act, the Reeve shall appoint someone to act in his/her place.
- DRO or other election official is unable to act, the RO shall appoint a person to act in his/her place.
- Any poll place becomes unavailable, the RO shall name another place.
- Council does not appoint a DRO or in the absence of the DRO, the RO shall perform the duties of the DRO.
- A poll has been designated for more than one division, a person may act as DRO for more than one division at that polling place.

Every RO, DRO, Poll Clerk, Constable or other person appointed as an election official shall subscribe to an oath in Form "A" before assuming their duties.

CANDIDATE ELIGIBILITY

Qualifications

A person may be nominated as a candidate in any election if he/she is:

- At least 18 years of age;
- A Canadian citizen;
- Eligible to vote in the municipality;
- A resident of Saskatchewan; and
- Not disqualified by any Act.

No person may be nominated or elected as a member of council for more than one division or a councillor of a division and Reeve of the municipality.

A councillor whose term of office does **not** expire in the year of the annual election is not eligible for nomination or election for Reeve, unless he/she has prior to filing his/her nomination paper, filed his/her resignation with the administrator.

A resignation is irrevocable – the resignation would take effect at midnight on December 31 following the nomination period or on an earlier date specified in the resignation.

If a councillor whose term does not expire in the current year submits his/her resignation to the administrator, not less than 15 days prior to the close of the nomination period, the RO shall include that office in the next annual election to fill the vacancy for the unexpired term. The effective date stated in the resignation may in the future so long as it is not beyond the current year. If the date were stated beyond the end of the current year, a by-election would need to be held.

Disqualification

Persons not qualified to be nominated or elected as a member of a council include:

- A paid employee of a municipality or a surety of such an employee;
- An auditor of a municipality;
- Any person who has a contract with or indirect contract with or on behalf of the municipality; or
- A judge of a court.

Not Disqualified

No person is disqualified from being nominated or elected as a member of council for:

- Being bankrupt;
- Being an ex convict;
- Being indebted to the municipality;
- Being a shareholder in a company having a contract with the municipality;
- Having a contract for publishing advertisements in a newspaper;
- Having a contract with the municipality on terms common to all voters in the municipality; or
- Having a contract to provide goods and services that are not readily available from any other municipal resident and the price is reasonable and every member of council votes in favour of the contract.

NOMINATION PAPER

- For Reeve or Councillor shall be in writing.
- Shall be in the prescribed form "D".
- Shall be signed for the Reeve, by at least two voters of the municipality.
- Shall be signed for Councillors, by at least two voters of the division.
- Must be duly completed, signed and accompanied by the candidates signed acceptance.

  Duly completed papers cannot be rejected even if the RO believes the candidate is not qualified or nominated by persons who are not voters of the division or municipality.

- Only one person shall be nominated on each paper.
- A voter may sign the nomination papers for more than one person.
- No candidate shall nominate him/herself.
- The onus to file a bona fide paper is on the person nominated.
- Any candidate or anyone else acting on his behalf can bring in the nomination paper.
- Faxes are acceptable because the RMA says nomination papers will be "received".
- RO must post copies in the municipal office during the nomination period.

  It is not the RO's responsibility to rule on the validity of the information contained in the paper.

  The RO may point out known discrepancies that the candidate may wish to correct.

  If a candidate falsely signs his acceptance statement and is elected and then convicted for doing so, his seat becomes vacant and council shall declare it so.

  Immediately on the close of the nomination period, the RO shall deliver the completed nomination papers to the administrator who is required to retain them for a three-month period. After the three-month period the papers are to be destroyed in the presence of two witnesses.

NOMINATIONS

- A candidate may withdraw within 48 hours after the nomination period by giving the RO a written declaration, signed by two witnesses or the RO. There is no prescribed form.

- If after the withdrawal of a candidate, the number of persons nominated equals the number to be elected, the RO shall declare the persons nominated as elected.

  When a candidate is declared elected by reason of another candidate's withdrawal, the RO shall within ten days after the nomination period advertise and post one copy in the municipal office a notice of abandonment of poll. The notice shall be in the prescribed form "E".

- If a candidate dies between the close of the nomination period and the close of the poll and the remaining people do not exceed the number required to be elected:

  - the RO shall declare an abandonment of poll and advertise and post one copy of the notice in the municipal office in the prescribed form "F";

  - council at its next meeting shall provide for the holding of a by-election; and

  - persons nominated in the election and candidates that withdrew are deemed to be nominated again without having to be nominated during the new nomination period

- If no candidate is nominated by the close of the nomination period, nothing can be done until the next meeting of council. Council will, by resolution, arrange for another nomination period.

  - the same procedures used for setting up for the annual election should be followed as closely as possible.

- If more than the required number of persons are nominated for Reeve or councillor for one or more divisions, the RO shall:

  - declare that a vote will be held;
  - name the day (3rd Wednesday after nomination period) for voting and the poll place for each division; and
  - name the time and place where the voting will be declared.

RETURNING OFFICER RESPONSIBILITIES

The Returning Officer shall:

- Procure a suitable ballot box for each division, made of durable material and two metal seals.

  If the polling places for two or more divisions are in one room, you do not need a separate ballot box for each division.

- Cause to be printed or prepared ballots sufficient for the election.

  Separate ballots of different colour shall be provided for the election of Reeve and Councillors.

  The order for ballots should be placed immediately following the 48-hour period allowed for a candidate to withdraw; after 3:00 p.m. on the Wednesday following the close of the nomination period.

  The composition of ballots is provided for in *The Rural Municipality Election and Voting Regulations, 1990.*

  - Ballots for the Reeve shall show the candidates names in alphabetically order of surname, in prescribed form "H".

  - Ballots for Councillors shall be prepared for each division, showing the candidates nominated for each division and having the candidates names arranged in alphabetically order of surname, in prescribed form "I".

  - If two or more candidates have the same surname, the names of those candidates shall be arranged alphabetically in the order of their given names.

- Supply each DRO with a poll book in the prescribed form "J" subject to subsection 95(2).

- Before the polls open deliver the ballots and any other material necessary to mark the ballots to the DRO for each division.

- Cause to be prepared in the prescribed form "K" sufficient printed directions for the guidance of voters.

- Plan a training session, prior to election day, for the election officials. This would be an appropriate time to have the election officials subscribe to the oath of office.

The administrator shall prior to the election provide every DRO with at least two copies of Section 155 RMA and at least two copies of Sections 3, 4, 7 and 8 of *The Controverted Municipal Elections Act*.

VOTING PROCEDURES

GENERAL

- Every person must complete a voter's registration form in the prescribed form "L" (J.1 where a combined voter's registration form/poll book is used).

- If a person fails to complete the voter's registration, they are not entitled to vote.

- The DRO must record the person's name in the poll book.

- All entries in the poll book must be numbered in consecutive order.

- On receipt of the completed statement, the DRO initials the back of the ballot and gives the person the ballot. The person then votes.

- The DRO, when requested, shall explain the proper voting procedure as concisely as possible.

- If a voter is unable to read or is incapacitated by physical cause and unable to vote, the DRO shall:

  - assist the voter by marking the ballot as directed in the presence only of the poll clerk and any of the candidates' agents; or
  - permit the person accompanying the voter to accompany the voter in the voting compartment and mark the voter's ballot for him/her.

  This is the only time a DRO shall allow another person to accompany a voter to the voting compartment.

- An entry should be made in the poll book whenever a ballot is marked for a voter.

  There is no provision for having an interpreter or to supply a template for the visually impaired.

- When a voter is voting, no other person is allowed to occupy a position from which he/she can see the way a ballot is marked.

- On receipt of the ballot, the DRO verifies his/her initials and deposits the ballot in the box.

  Keep something like an envelope, on the ballot box slot at all times

- Ballots may not be removed from the poll place and if this happens that person forfeits his/her right to vote and this is recorded in the poll book.

- If a ballot is spoiled unintentionally, the voter can return the spoiled ballot to the DRO who will replace it. The spoiled ballot is retained for counting purposes.

- If a person declines to mark a ballot and so indicates this to the DRO, the DRO shall write, "declined" on the ballot. It is retained for the count. The person declining the ballot cannot return later to vote.

VOTER QUALIFICATIONS

- Persons entitled to vote for Reeve or Councillor are the voters of the municipality.
- Each voter is entitled to vote only once for Reeve and once for a Councillor in the division he/she is entitled to vote in.

Voter A person qualified to vote as either an elector or a burgess at municipal elections, on Bylaws or on questions

Burgess A person who on the day of the election is a Canadian citizen and at least 18 years of age and who immediately preceding the day of the election:

- is the registered owner of taxable land in the RM, but, if the land is owned under an agreement for sale, is the purchaser;

- is assessed as an occupant of land in the RM which is exempt from taxation;

- is assessed for an improvement in the RM;

- is assessed for a business in the RM (year 2000 only);

- is licensed in the RM for a home based business;

- is licensed in the RM for a trailer, mobile home or portable shack;

- is a resident of the RM and a shareholder of; or is a resident of Saskatchewan and CEO of: a co-operative, corporation or religious association assessed for land, improvement or a business that's not exempt from taxation or that is licensed for a home based business; or

- is a person not qualified in his/her own right as a burgess but is the spouse of a burgess "other than a CEO" and resides with that person in the RM.

The spouse of a CEO is not considered a burgess and would only qualify as an elector under 2(1)(j)(ii).

Elector A person other than a burgess who on the day of the election is a Canadian citizen and at least 18 years of age and who immediately preceding the day of the election:

- has resided in the RM for at least 6 months; or

- is the spouse of and resides with a burgess in Saskatchewan, but outside the RM.

CANDIDATES/AGENTS

- DRO must receive written authority from a candidate who wants to appoint agents.

- No oaths required for candidates or agents.

- Candidates or agents have the right to:
  - observe proceedings at the poll;
  - enter and leave as they please during hours the poll is open; and
  - demand that a voter complete the voter's registration form.

- No right to question the voter or to try to influence their voting decisions.

- No provision to object to the vote of a voter.

- Each Candidate and no more than two of his agents may be present during the voting and at the count of the votes.

ADVANCE POLL

An advance poll provides voters the opportunity to vote sometime prior to the actual election day. A voter physically disabled or anticipates being unable to vote on election day is eligible to vote at the advance poll.

In the case of an annual election:

- it is at council's discretion as to whether they arrange for an advance poll; or
- if council receive a petition prior to October 1st, signed by at least 5 voters, then an advance poll must be held

- For elections other than the annual election, the request for an advance poll must be made at least 30 days prior to election day.

- Council's instructions to the RO to arrange for an advance poll must be in the form of a resolution or bylaw.

- The advance poll can be held on any one of 5 days preceding election day except it cannot be held on a Sunday.

- Council is not restricted as to what hours the advance poll is to be open. The day and time must be set by resolution.

- The notice of the advance poll must be published in the same newspaper that contains the notice of poll.

- The notice must also be posted in the office of the administrator.

- After the close of the poll the ballot box will be sealed and remain sealed so that nothing more can be deposited in the box.

- The DRO for the advance poll must keep the ballot box until the close of the poll on election night and return to the same place where the advance poll was conducted in order to count the ballots.

In most cases there will few voters in an advance poll, so it would be best to combine the ballots of the advance poll and regular poll for the count. The regular DRO would be responsible for the count

PROCEEDINGS AFTER CLOSE OF POLL

- If a voter is in the polling place at the time of closing, he/she is entitled to vote. Except for the RO, no other person shall be allowed to enter the polling place.

- When everyone has voted, the DRO shall total the number of persons who voted at the poll and enter this number in the poll book after the last name and certify this by his/her signature.

- The DRO in the presence of the poll clerk, any candidates or their agents shall open the ballot box and examine each ballot.

- The DRO shall reject every ballot:

  - that does not have his/her initial on the reverse side (subject to Section 126);

  - on which something is written or marked which can identify the voter;

  - on which the voter made more votes than entitled to;

  - that has been torn, defaced or otherwise treated so as to identify the voter;

  - on which no vote is marked; or

  - that is marked other than specified (See Sections 107 & 125).

- The DRO shall not reject a ballot:

  - because the voter marked the ballot with a mark other than an "X" or placed the mark out of or partly out of the proper space provided for on the ballot. The mark must clearly indicate intent to vote for the candidate opposite whose name it appeared

  There may be ballots in which an "X" is made, or attempted to be made, but is not very well made; whether from unsteadiness of hand, or accidental disturbance, the lines are not clear but somewhat shaky and irregular – such imperfection should not disenfranchise a voter.

  The principle of "fulfilling the voter's intention" has always found favour in the courts – in other words if the mark is opposite the candidate's name, and towards the right-hand side, the ballot should be counted.

- that does not have the DRO's initials on the reverse if the DRO is satisfied that:

    1. the ballot is one that was given by him/her to a voter intending to vote;
    2. the omission of initials was inadvertent; and
    3. the ballot is required to enable the DRO to account for all ballots supplied.

    If the initials were omitted, the DRO shall put his/her initial in the place indicated and count the ballot as if it had been originally initialed. This does not relieve the DRO from any penalty he/she may be liable for.

- A candidate or his/her agent may object to a DRO rejecting a ballot, or may object to a DRO refusing to reject a ballot.

If this happens the DRO shall:

- number the objection by placing a number on the reverse side of the ballot near his/her initial;

- record the objection in the poll book including the number used;

- endorse the ballot objected to by writing the words "rejection objected to" or "counting objected to", as the case may be; and

- after hearing the appeal, the DRO shall note his/her decision in the poll book and initial the entry.

- The DRO shall count the votes on the ballots which have not been rejected and:
    - prepare a duplicate statement of the results in the prescribed form and sign the statement;

    - if requested give a copy of the statement of results to a candidate or his/her agent; and

    - attach a copy of the statement of results to the poll book.

- The DRO shall in the presence of any candidate or their agents present, make separate packets for the ballots:

    - counted for Reeve;
    - rejected for Reeve;
    - counted for councillors;
    - rejected for councillors; and
    - unused, cancelled and declined

    which are then sealed and marked with their contents.

- The DRO shall then place all packets, poll books and voters' registration forms in the ballot box and seal the box with a metal seal and the seals of any candidate or their agents if they so desire.

- The DRO shall forthwith deliver the duplicate statement and the ballot box to the RO.

- The RO shall count from the duplicate statements the number of votes for each candidate and at the time and place previous appointed shall:

  - publicly declare to be elected the candidate having the highest number of votes for each office to be filled; and

  - post in the municipal office a statement of the results, including the number of votes for each candidate.

- If there is an equality of votes, the RO shall declare that no candidate is elected and after a recount of the votes the candidates still have equal votes; or the time for a recount has passed and no recount was requested, the RO shall declare the election void and make provision to hold another election for that office.

  This means the RO does not require council authority to proceed with the holding of another election.

- An "election" is not defined as strictly meaning the poll place, so one must conclude it refers to the complete election process.

  - because of the waiting period (recount-advertising) it is possible the new election day would fall on either December 25 or January 1st. By virtue of Section 17(10) of The Interpretation Act, the election would be held on the first day following which is not a holiday;

  - Section 17(4) of the RM Act reads that you hold office commencing on January 1st following his/her election. If the new election fell on January 2nd, then it would seem that you would not take office until one year later, however,

    Section 17(4) would not apply in this case because the original election was held pursuant to Section 138 of the RM Act and the new election would only be a continuation of the election process.

    So the winning candidate would take office as soon as he/she is officially elected in the New Year.

- After the election the RO transmits the sealed ballot boxes to the administrator who is then responsible for their safekeeping.

- The contents of the ballot boxes must be retained until the expiration of three months after the close of the nomination period and then destroyed in the presence of two witnesses with an affidavit completed to this effect.

RECOUNT OF VOTES

You may only have a recount when the RO has declared the results and the difference between the number of votes cast for any elected person and the candidate who has the next highest number of votes is less than the number of ballots counted but objected to plus all rejected ballots.
(ie. if the difference is 2 votes, you must have at least 3 rejected/objected to ballots).

- If, within 14 days after the time of the RO' s declaration a voter applies for a recount and the voter has:

  - submitted an affidavit stating that the DRO improperly counted or rejected any ballots, and

  - deposits a sum of $100.00

  the administrator shall forward the affidavit and deposit to the local registrar, who will notify the judge.

  Any voter of the municipality may take steps to have the ballots recounted. However, these steps pertain only to counting of the ballots and any irregularities with regard to the election procedures, must be challenged under *The Controverted Municipal Elections Act.*

- The judge shall appoint a time to recount the votes and notify the candidate and administrator of this time.

- The administrator has to bring the sealed ballot boxes and duplicate statements to the recount.

- The only persons allowed at the recount are:

  1. The judge;
  2. The local registrar;
  3. The administrator;
  4. Any candidate notified to attend and his/her agent(s) or solicitor;
  5. Any other person allowed by the judge; and
  6. Any representative of the press.

GENERAL ELECTION PROVISIONS

OATH OF OFFICE

- May be taken by newly elected council members any time after the election results have been declared (after the recount period). Declarations must be made within 3 months after the person has been elected (24(1)(e) RMA). Duties commence at the first meeting of council in the new calendar year. The administrator calls the first council meeting.

PRINTED ADVERTISEMENTS

- Other than those provided under the RMA, advertisements such as campaign ads, posters, pamphlets, etc. must have the name and address of the printer.

LIQUOR OUTLETS

- There is no reference to closure of liquor outlets during a municipal election in *The Alcohol Control Act*.

REMUNERATION

- Council sets remuneration for an election official. Any rates established by council must however comply with the minimum wage law, if paid on an hourly basis.

AGE OF MAJORITY

- Election officials and others involved in an election must be of the age of majority, which in the Province of Saskatchewan is 18 years, for any election documents signed or taken by them to be valid.

  Any action taken by a minor in an election would not be binding.

Remember: The appearance of due process in elections is as important as the process itself. An election must not only be fair and principled, it must also appear to be so.